Domestic Relations -- Illegitimacy in North Carolina

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INTRODUCTION

In *The Social Contract*, Rousseau wrote: "The most ancient of all societies, and the only one that is natural, is the family." He might have added that larger societies rely on the family as their basic unit. This, of course, is true of the State of North Carolina. Any disruption of the family is likely to be regarded as a threat to the state. One such threat is posed by births out of wedlock. Lawmakers perceive this threat, it is supposed, in two aspects: the cost to the mother and child, and the cost to the public. In determining each, it is necessary to isolate illegitimacy as a factor in social dependency and personal hardship. The statistics do not provide a ready answer to the question: what are the direct consequences of illegitimacy? It has been shown that the child born out of wedlock

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*Research for this comment was made possible by a grant from the Carolina Population Center, Chapel Hill, N. C.*


3 The Technical Subcommittee on Children and Youth of the North Carolina Conference for Social Service estimated that the total annual amount spent by the state for illegitimate children was 13,638,900 dollars, in the following programs:

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Annual Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Education</td>
<td>75,000</td>
</tr>
<tr>
<td>Aid to Dependent Children</td>
<td>13,000</td>
</tr>
<tr>
<td>Schools for Mentally Retarded</td>
<td>350</td>
</tr>
<tr>
<td>Hospitals and Sanatoriums</td>
<td>150</td>
</tr>
<tr>
<td>Schools for Delinquent Children</td>
<td>100</td>
</tr>
<tr>
<td>Foster Boarding Homes</td>
<td>600</td>
</tr>
</tbody>
</table>

is slightly more likely to become a public charge. But it is also true that, since there are five times as many nonwhite illegitimates as there are white, and the median income of nonwhites is less than half that of whites, the illegitimate child is more likely to be born into an economically deprived environment than his legitimate contemporary. It would be difficult to conclude that the child's situation would be markedly improved had his mother been married. In short, illegitimacy may be more accurately regarded as a symptom, rather than a cause, of social problems. It remains, however, a phenomenon worthy of study by both lawmakers and social scientists. Like a

<table>
<thead>
<tr>
<th>Form of Care</th>
<th>Total Number of Children</th>
<th>Per Cent Illegitimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foster Boarding Homes</td>
<td>2,200</td>
<td>27</td>
</tr>
<tr>
<td>Aid to Dependent Children</td>
<td>75,000</td>
<td>17</td>
</tr>
<tr>
<td>Schools for Mentally Retarded</td>
<td>3,000</td>
<td>12</td>
</tr>
<tr>
<td>Schools for Delinquent Children</td>
<td>1,000</td>
<td>10</td>
</tr>
<tr>
<td>Hospitals and Sanatoriums</td>
<td>1,500</td>
<td>10</td>
</tr>
<tr>
<td>Orphanages</td>
<td>3,800</td>
<td>8</td>
</tr>
</tbody>
</table>

Source: NCCSS Report 15-16.

Analysis of the above figures by race indicates that the difference in social dependency between children born in and out of wedlock is, indeed, slight. For example, while Aid to Dependent Children (now referred to as Aid to Families with Dependent Children, or AFDC) recipients are illegitimate to a much greater degree than is true of the society as a whole, the difference is misleading due to the racial composition of the recipients. Negroes make up over half of AFDC recipients (BUREAU OF FAMILY SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, STATE LETTER No. 646, April 2, 1963, Table 3) but less than one quarter of the population of North Carolina. Thus, the AFDC illegitimacy rate must more closely approximate the Negro illegitimacy rate than the overall North Carolina rate. A 1958 survey indicated that among nonwhites, 8.8 per cent of the illegitimate and 6.8 per cent of the legitimate children received AFDC; of whites, 9.3 per cent of the illegitimate and 2.5 per cent of the legitimate received AFDC. NCCSS Report 12. It would seem, then, that children born out of wedlock are cared for by their families almost to the same extent as other children.

* The following table presents an estimate of the per cent of children being cared for at public expense who were illegitimate, in 1959, when the overall illegitimacy rate in North Carolina was 9.1 per cent:

* NCCSS Report 10. See Pope, Unwed Mothers and their Sex Partners, 29 J. MARRIAGE AND THE FAMILY 555, 566 (1967) [hereinafter cited as Pope], for a discussion of the "matrifocal family" and the low commitment of Negro women to marriage.

* In 1959, the median income of North Carolina whites was 2342 dollars, Negroes 884 dollars, and others 828 dollars. U.S. BUREAU OF THE CENSUS, CENSUS OF POPULATION 1960, DETAILED CHARACTERISTICS (NORTH CAROLINA) TABLE 133 (1962).

* A similar conclusion has been drawn with regard to illegitimacy and dependence on public assistance: that they both spring from the same causes, rather than being themselves causally related. Brenner, Illegitimacy and Aid to Dependent Children, 8 PUBLIC WELFARE 174 (1950).
road-cut reveals evidence of upheavals beneath the earth's crust, an understanding of illegitimacy can illuminate greater dilemmas facing North Carolina: poverty, race and birth control. Further, the topic can serve as a case study in the translation of governmental decisions into action. This comment will examine illegitimacy as a focus of governmental policy in North Carolina. From a study of the relevant statutes, a survey of county commissioners, interviews with Department of Public Welfare caseworkers in selected counties, and information supplied by county Departments of Public Health, the writers draw conclusions about the direction and efficacy of North Carolina's response to the problem of births out of wedlock.

The difficulty suggested above in measuring the added social burdens attributable to illegitimate births obviously does not mean there is no "problem." Illegitimacy is a social problem in the first place because it is thought to be one. Lest this seem an empty tautology, it should be pointed out that some other countries have eliminated the problem by eliminating the category: in Sweden, for instance, all children are "legitimate." North Carolina supports the traditional family structure with legal underpinnings. Birth certificates reveal the child's status, and legal consequences flow from this status. Such laws, of course, reflect more than a desire "to

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8 Questionnaires were sent to all 473 of the state's county commissioners, to determine how they viewed the problem, what was being done about it in their counties, and what obstacles the programs faced. The questionnaire and statistics on the response are set out in Appendix I.

9 Personal interviews were had in six county departments, mail response was received from one, and there was no reply from one. The interview schedule and a discussion of the methods by which the counties were selected are in Appendix II.

10 Questionnaires were sent to ten departments, but only four responded. A comparison of their programs dealing with illegitimacy and the questionnaire are found in Appendix III.

11 Linner, Sexual Morality and Sexual Reality—The Scandinavian Approach, 36 Am. J. Orthopsychiatry 686, 690 (1966) [hereinafter cited as Linner]. No stigma is attached to either the mother or the child, all children are treated alike for purposes of family allowances, and the mother and her child are regarded as a "family." Id. For an examination of laws relating to this and other population problems in Japan, Korea, Thailand, Tunisia, Egypt and the U.S.S.R., see Rule of Law Research Center, Law & Population: A Preliminary Study (manuscript at Carolina Population Center).

12 The father's name is not shown on the illegitimate child's birth certificate, unless the father consents. N.C. GEN. STAT. § 130-58 (1964).

13 The illegitimate child may inherit from his mother, but not from his father. N.C. GEN. STAT. § 29-19 (1966). Though the mother's duty to support the child may be enforced at any time before it reaches the age of
prevent [illegitimate children] from becoming public charges; they also codify a prevailing morality which stigmatizes the unwed mother and her child as both shameful and unfortunate. The traditional Christian proscription against premarital sex and the advantages of legitimacy to most families foster such a code. Moral and economic concerns coalesce to focus public attention on births to mothers who can least afford to care for their children. A steady-


Jolly v. Queen, 264 N.C. 711, 714 (1965).

According to Linner, the law plays a greater role in leading and shaping public opinion in Scandinavia than in the United States. Linner 692. There is much less stigma attached to births out of wedlock in the Scandinavian countries. Id. at 690.

Pope and Knudsen have suggested a sociological explanation for adherence to a norm of legitimacy. Legitimate births maintain clear family ties and thus enable the preservation of status, wealth, power, etc., from generation to generation. (In the lowest socio-economic group, with little to preserve, the norm is much weaker; see Pope 566.) Advantaged groups contrast their adherence to a "morality" which condemns illegitimacy with the "immorality" of disadvantaged groups. The moral unworthiness of the poor can be used to justify such measures as decreased welfare allotments, sterilization of unwed mothers, and removal of illegitimate children from their homes. Pope & Knudsen, Premarital Sexual Norms, the Family, and Social Change, 28 J. Marriage and the Family 314 (1965). [hereinafter cited as Pope & Knudsen].

Vincent's study shows that this is true even though the illegitimacy rate may be more drastic among other women. During the period 1937-57, the increase in illegitimacy among women aged 25-34 tripled that among those aged 15-19, but chief attention and resources continued to be paid to the latter group because they more frequently became "burdens" on society. C. Vincent, Unmarried Mothers 86-96 (1961).
ily increasing rate in recent years has intensified the public conviction that illegitimacy is a problem.

PREVENTION OF ILLEGITIMACY

Criminal Statutes

The simplest, bluntest and probably least effective way to prevent births out of wedlock is to make extramarital intercourse a crime. North Carolina has long punished fornication and adultery as misdemeanors, although the law does not reach single, isolated acts.

Those familiar with police work know how rarely the statute is invoked, and perhaps realize how negligible a proportion of offenses is reached by prosecution. The effectiveness of such statutes in preventing illegitimacy is dubious, and changing sexual standards

\[\text{\textsuperscript{18}}\] The white illegitimacy rate in 1957 (2.1 per cent) was the lowest it had been since the Depression, but it has increased steadily since, and the rate in 1965 (3.1 per cent) was the highest in this century. The rate for Negroes has increased every year since 1948, and it, too, was the highest in this century in 1965 (28.3 per cent). The overall rate for North Carolina in 1965 was 11.2 per cent. NCCSS Report 1; Public Health Statistics Section, North Carolina State Board of Health, Annual Reports 1960-64; Public Health Statistics Section, North Carolina State Board of Health, Vital Statistics, Part 2, Table B-2 (1965) [hereinafter cited as 1965 Vital Statistics].

\[\text{\textsuperscript{19}}\] N.C. Gen. Stat. § 14-184 (1953). It has been suggested that such statutes are vulnerable to constitutional attack, as infringing the "right of privacy" applied in Griswold v. Connecticut, 381 U.S. 479 (1965), to marital relations. See Comment, Equality for the Illegitimate?, 8 Welfare L. Bull. 13 (1967).

\[\text{\textsuperscript{20}}\] State v. Davenport, 225 N.C. 13, 33 S.E.2d 136 (1945). Proof that the parties had cohabited for two weeks has been held sufficient. State v. McDuffe, 107 N.C. 885, 12 S.E. 83 (1890). N.C. Gen. Stat. §§ 14-186 (1953), 72-37 (1965), prohibit unmarried couples falsely registering as man and wife, or staying in a hotel room for "immoral purposes"; these statutes do reach isolated acts.

\[\text{\textsuperscript{21}}\] A primary reason for the minimal enforcement of the law, the low visibility of the crime, also hampers knowledge about the extent of extramarital sex. But one statistic may provide a clue: in 1965, nearly 11,000 illegitimate children were born in North Carolina. 1965 Vital Statistics, Table B-2. For a review of the findings of several investigators on the incidence of pre-marital sexual intercourse among high school and college students, see W. Ehrmann, Premarital Dating Behavior 39-44 (1960).

\[\text{\textsuperscript{22}}\] Since the statute does not condemn casual promiscuity, see note 20 supra, it does not reach those who are least prepared for any child which might result. There is also reason to believe that this group is less likely to take precautions against pregnancy. A survey of North Carolina unwed mothers indicated that the use of contraceptives increased with the length of the relationship, although three fifths of the white mothers and two fifths of the Negroes used no contraceptives at all. Bowerman 388, 390.
will probably make them increasingly anachronistic. "Permissiveness with affection"—that is, a toleration for premarital intercourse in relationships involving strong affection or love—is becoming the dominant standard. This gradual trend is in the same direction as the Scandinavian experience, where "the new morality...already is established in large groups of the society." A comparison with that experience might be instructive. In the Scandinavian countries (all share similar economic and social structures), the state does not play a primarily restrictive role, but rather hopes to educate its citizens to sexual responsibility. Sex education in the schools and public-supported contraceptive information and distribution facilities are legislative expressions of this aim. Premarital sexual relations are accepted by the law, and "the gap between public morality and sexual behavior is less wide than in the United States." The Scandinavian illegitimacy rate is approximately the same as North Carolina's, but it has remained constant since the beginning of this century while ours has been increasing. Of course, there are differences in social composition and history between these countries and North Carolina which help to explain the contrast in public policy. It has long been customary in Sweden and Denmark for couples considering marriage to have intercourse, and to be responsible (usually, to marry) if pregnancy should result. In fact, illegitimacy rates were higher in Sweden in the nineteenth century than they are today. A significant contrast is between the racial homogeneity of Scandinavia and the racial bifurcation (in some areas, trifurcation) of North Carolina. This division is reflected in our illegitimacy rate, which shows five times as many nonwhite as white illegitimates being born each year.

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23 Pope 563-64; see generally I. Reiss, Premarital Sexual Standards in America (1960).
24 Pope & Knudsen delineate the social forces operating to make this change evolutionary, rather than sudden.
25 Id. at 687, 689. North Carolina has birth control clinics, primarily for the medically indigent. See pp. 821-23, infra. Sex education is almost nonexistent, although Charlotte and Winston-Salem have recently started such programs. See p. 823, infra.
26 Id. at 692-93.
27 Id. at 690.
28 Id. at 690.
29 See note 18, supra. Pope & Knudsen 317 n. 14, suggest that the constant rate in one Scandinavian country (Denmark) is an important factor in creating a more tolerant attitude toward premarital sex and unwed mothers.
30 Linner 689.
31 Id. at 690.
32 See note 18, supra.
Since the rate among whites is minimal,²³ it is inevitable that many North Carolinians would consider illegitimacy a Negro phenomenon, and act on that basis.

Sterilization

The 1963 General Assembly greatly increased the availability of sterilization as a birth control measure by passing a consent sterilization statute.²⁴ Prior to that act, the statutes only provided for sterilization of mentally defective persons.²⁵ Further “liberalization” of the law is being urged, but it is uncertain what form this would take.²⁶ The present statute requires only a simple request in writing by the person on whom the operation is to be performed (and spouse, if living with the person),²⁷ and a thirty-day waiting period.²⁸ The operation is available to all persons over twenty-one, and to married persons under twenty-one. An unmarried minor must have an order from the juvenile court that such operation would be in the minor’s “best interest.”²⁹ Since sterilization is permanent (until research seeking a way to temporarily sterilize is successful) it would likely be deemed a harsher method of birth control and less desirable than contraception. But among persons with mental or physical defects, who find it difficult to make effective use of contraceptives, sterilization may be accepted as preferable to continued child-bearing. Our study indicates that this is the situation in which welfare caseworkers and public health nurses suggest sterilization; in all four county health departments which sent information, such suggestions are infrequent.

²³ The white rate is itself divisible, because mountain counties typically have a much higher rate than is true in the rest of the state. Bowerman 47; 1965 Vital Statistics, Table B-2.
²⁶ See Address of Floyd R. Evans, President of N.C. Public Welfare Association, at N. C. Association of County Commissioners Annual Convention, Aug. 15, 1967; Raleigh News & Observer, Aug. 16, 1967, at 1, col. 2. Several county commissioners mentioned “improvement” of the law, including “mandatory” sterilization, as a way to control illegitimacy.
²⁷ If the spouse has been declared mentally incompetent, or there has been a separation or divorce, or in the case of a woman, if she declares that her husband has abandoned her for six months, no signature of the spouse is required. N.C. Gen. Stat. § 90-271 (Supp. 1967).
Abortion

Americans have traditionally considered abortion an anti-social means of preventing births, not to be legally or normatively tolerated.\(^4\) It is a criminal offense in every state, with tightly limited exceptions.\(^4\) North Carolina has recently liberalized its statute, but the newly-permitted justifications are directed only to the health of the mother or the child, or to the criminal nature of the act which led to conception.\(^4\) Abortion, then, is not a legal alternative for the prevention of births out of wedlock.\(^4\) Illegal abortions remain a problem of unknown magnitude; estimates of the annual number in the United States range from 300,000 to 2 million.\(^4\) These operations, often hastily performed by unlicensed practitioners, present a health menace\(^4\) for which no solution has yet been found. Other countries have responded to like situations by further liberalizing their abortion laws\(^4\) and by giving state support to ambitious birth control programs,\(^4\) but these have not as yet been completely effective.


\(^4\) The great majority of states prohibit every abortion except when necessary to preserve the woman's life. For a comment on the new North Carolina abortion statute and a general discussion of current law in other jurisdictions, see Comment, The New North Carolina Abortion Statute, 46 N.C.L. REV. 585 (1968).

\(^4\) N.C. GEN. STAT. § 14-45.1 (Supp. 1967). The statute allows an abortion to be performed by a physician when he (and two other physicians) can establish that: (1) it is necessary for the health of the woman; or (2) the child would probably be born with severe mental or physical defect; or (3) the pregnancy resulted from rape or incest.

\(^4\) It may be noted that in other countries which feel themselves threatened by the pressure of population, abortion is normatively accepted and frequently practiced. In Japan, exceptions to the penal provision on abortion have, in effect, allowed any woman to have a pregnancy terminated if she so desires. An estimated 2.5 million abortions per year are performed in Japan. Rule of Law Research Center, note 11 supra, at 16, 20. But it is not only overpopulation that leads to such permissiveness. Abortions are allowed on request in the U.S.S.R., which considers itself underpopulated. Id. at 23-24.

\(^4\) The Planned Parenthood Federation estimated there would be nearly 1 million illegal abortions in 1967. It said 80 per cent of the women who have abortions are married, are pregnant by their own husbands, and have other children. Durham Morning Herald, July 21, 1967, § C, at 2, col. 1. The medical director of the National Committee for Maternal Health said that the number of abortions is increasing, but not as fast as the population because of increasing use of effective contraceptives. Id.

\(^4\) Id.

\(^4\) The Scandinavian countries; see Linner 691. The theory is that a legal abortion is more likely to be a safe abortion.

\(^4\) Japan: see Rule of Law Research Center, note 11 supra, at 28.
Birth Control

With fornication statutes loosely enforced, and cultural norms tending toward greater acceptance of premarital sex,48 the disassociation of intercourse from pregnancy by means of birth control is gaining importance as a means of preventing illegitimacy. Publicity attending the development of a “pill” which can serve as a practical and effective contraceptive has stimulated concurrent interest in other techniques. Such groups as the Planned Parenthood Federation seek to increase public awareness and use of birth control as a necessary response to the “population explosion.” Others emphasize the relationship of large families to the cycle of poverty, and hope “to fight poverty” by “prevent[ing] children from being born in poverty.”49 Illegitimate births, of course, are not the only target of birth control proponents, but because of the association between illegitimacy and dependency they are a major concern of those state agencies which deal with birth control. There are active Family Planning Clinics, offering medical examinations and free contraceptives to the poor, in at least sixty-one North Carolina counties.60 Breadth of the program and standards of eligibility vary from county to county.51

The chairman of the State Board of Public Welfare, in a widely publicized speech, called for “insistence on the use of contraceptives [in welfare cases] . . . and we should not pussyfoot around about it.”52 Consistent with this aim, the Board has made it a condition for reception of Aid to Families with Dependent Children63 that the mother have “adequate” birth control advice.54 This requirement may lead to confusion in practice: what is “adequate” advice? What should the local Department of Public Welfare do if a woman has another child in spite of the advice? It is perhaps significant that the motion which resulted in this new policy

48 See notes 21 & 23 supra, and accompanying text.
49 Evans, supra, note 36.
60 Interview with Editha Ponder, Director of Division of Research and Statistics, N.C. Department of Public Welfare, July 26, 1967. Federal grants for this purpose are made available to the states under the Maternal and Child Health Amendments of 1963, and cover 50-100 percent of costs. 42 U.S.C. §§ 701, 702 (1964).
51 For a comparison of family planning programs in four counties, see Appendix III.
52 R. Howison, Address to State Welfare Administrative Conference, N.C. Dept. of Public Welfare Memorandum 7 (July 17, 1967) [hereinafter cited as Howison].
53 See pp. 822-23 infra.
originally provided that a mother who did have another child would “automatically be prosecuted by the State Board of Welfare for fornication.” The significance is reflected in the implication that a punitive approach can best quash illegitimacy, an attitude that is widespread. It may presage a more aggressive birth control policy toward welfare recipients, one which is likely to bring an adverse reaction from certain groups as well as raise constitutional problems. Officials on the county level have expressed discontent with such state policies. Local welfare directors point out that, while the State Board presses for birth control, the state provides no money for family planning clinics. County commissioners responding to our questionnaire thought that increases in expenditures dealing with illegitimacy should come from the state rather than the county, largely because of restrictive state rules. As far as the welfare careworkers are concerned, though, the resolution of the State Board may have been unnecessary. Our study indicates that they not only

65 Id. at 2, col. 1. This measure was probably suggested more as an expression of the “sense” of the Board than as an operative procedure. The difficulty in proving cohabitation at a period more than nine months prior to the initiation of prosecution would complicate evidentiary problems already present in fornication cases. There could be no presumption based on the illegitimate birth, since “cohabitation” requires more than one act of intercourse. See cases cited note 20, supra.

66 This attitude is reflected in many of the replies received from county commissioners, calling for “mandatory” sterilization, punishment for fathers of illegitimate children, and an end to what is regarded as “coddling” of unwed mothers by the Welfare Department.

67 Some “Black Power” leaders oppose what they regard as an effort to reduce the black population; see the statement of Dr. Philip Cooke concerning the new welfare policies in Durham Sun, March 5, 1968, at 5A, col. 1. A wider range of civil rights and welfare groups would probably oppose attempts to force recipients to use contraceptives.

68 In Griswold v. Connecticut, 381 U.S. 479 (1965), the Court held that a state statute banning the use of contraceptives was an unconstitutional invasion of the right to privacy. It would seem that a statute or regulation requiring contraception would be subject to the same objection. However, Griswold involved the marital relation; there may be greater resistance to the establishment of a right of privacy surrounding extramarital relations.

It should be pointed out that the constitutional questions in this field have more often been posed by policies restricting rather than enforcing the use of contraceptives. Under the Economic Opportunity Act of 1964, 42 U.S.C. §§ 2781-91 (1964), Community Action Program funds are available for, among other things, family planning programs. The Office of Economic Opportunity has issued guidelines which prohibit use of such funds for the benefit of unmarried women, for publicizing these programs through the mass media, and for sterilization. These guidelines have been criticized as violative of equal protection and free expression by the American Civil Liberties Union. 3 Welfare L. Bull. 2 (1966).

unanimously recommend birth control to mothers on welfare, with good response, they also give advice to other members of the family. The great majority consider this an effective technique to control unwanted pregnancies.

**Sex Education**

Ignorance was the one obstacle to more effective action against illegitimacy cited most often by county commissioners in our study. Many saw a need for sex education, as did health department personnel. Only two North Carolina counties offer sex education in the public schools: Forsyth and Mecklenburg. The Winston-Salem/Forsyth County program is the more ambitious. Family Life education courses are taught in the fifth, eighth and twelfth grades, and these include sections on human growth and reproduction, along with social implications of growing up, family relations, and the economics of family living. The courses were initiated and adopted as part of the regular curriculum with encouragement from the local medical society. The Mecklenburg program involves courses in the fifth and sixth grades, and was initiated by a local pediatrician and the Charlotte educational television station. It is hoped that these courses will be expanded and will spread to other counties; as a Swedish family counselor has said, "We have a duty to support the young generation with the knowledge they need so desperate-

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60 Some social workers condition giving birth control advice to unmarried girls on their having had one child, or on the girl's being promiscuous. Others offer the advice to teenage girls as a matter of course, since they are convinced that sex education will not cause promiscuity, but will prevent pregnancy.

61 A unique plan which encourages birth control by the use of the carrot rather than the stick has been suggested by an economist, William Leasure. He estimates the average cost to the taxpayer of raising the average child from birth until he enters the labor force, which is ipso facto the savings to the taxpayer of preventing a birth. This figure (it works out to 3133 dollars per birth) can be used to compare with the cost of a birth control program. Leasure then proposes a plan for direct payments to low-income parents for not having children (scaled by the statistical expectation of births without the program). Its relevance to illegitimacy? Desertions and abandonment would be decreased with more money in the home; children would be raised in conditions less favorable to promiscuity. Leasure, Some Economic Benefits of Birth Prevention, Carolina Population Center Monograph C-53 (1965).

62 Letter from Raymond Sarbaugh, Associate Superintendent of Winston-Salem/Forsyth County Schools, March 25, 1968.

63 Telephone interview with George Powell, Department of Physical Education, Charlotte/Mecklenburg Schools, April 5, 1968.
ly..."

Greatest opposition comes from those who fear that sex education will lead to promiscuity, that knowledge will not lead to enlightenment but to enslavement. But the Scandinavian experience, after twenty years of sex education, suggests these fears are groundless. Opinion among North Carolina social workers and public health nurses is divided, but most favor sex education and instruction in birth control. The latter, of course, is not taught in the schools, but only in family planning clinics.

**Alleviation of Illegitimacy**

**Legitimation**

If the illegitimate child is a social problem, the most drily logical solution is to change his status. It was suggested in the Introduction, however, that births out of wedlock are symptomatic rather than causative of social problems. Legitimation, it would follow, is not necessarily a cure for the problem. But a change of status indicates a likelihood that the child is receiving the care and support North Carolina relies on the family to provide. A child may be legitimated in three ways: by petition of the "putative" father, by marriage of the mother to the "reputed" father, and by adoption. Legitimation entitles the child to inheritance from his father; support is required without legitimation, under Section 49-2 of the General Statutes. Further benefits of legitimation are suggested by the authorization of a new birth certificate: the child should be freed of the social stigma of "bastardy."

It is presumable that legitimation would be most frequently sought by those mothers who were most sensitive to such stigma. A

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64 Linner 689. See also NCCSS Report 25: "The most basic approach to dealing effectively with the problem of births out of wedlock probably lies within the realm of public education."
65 Id. at 688.
66 See p. 845 infra.
67 This is true in Scandinavia as well. Linner 688.
68 Some clinics impose such requirements as that the client already have a child, evidently on the same ground of not encouraging promiscuity. See Appendix III.
69 N.C. Gen. Stat. § 49-10 (1966). Thus, a child may be legitimate though his parents are not married.
corollary is that unwed mothers who had little commitment to marriage would less frequently avail themselves of the process. A study of unwed mothers in North Carolina indicates that, although the vast majority of all unwed mothers had engaged in a long-term relationship with the father (following the ordinary courtship pattern), there was a distinct difference in commitment to marriage between Negroes and whites.\textsuperscript{74} The matrifocal family pattern prevalent among poorer Negroes lessens the desire for marriage.\textsuperscript{75} Since this is also the group that experiences the highest illegitimacy rate,\textsuperscript{76} legitimation is least apposite where the problem is most severe.\textsuperscript{77}

\textit{Adoption and Foster Homes}

The adoption law of North Carolina\textsuperscript{78} makes special provision for illegitimate children. Consent, ordinarily required of the natural parents before adoption,\textsuperscript{79} is not required of the father of such a child\textsuperscript{80} nor of the mother if she has been determined unfit.\textsuperscript{81} Protection of the child from the stigma of illegitimacy is sought by forbidding reference to the child's parental status in the adoption papers,\textsuperscript{82} by making use of his original name unnecessary,\textsuperscript{83} by keeping the records secret,\textsuperscript{84} and by providing for a new birth certificate in which the adoption or prior name is not mentioned.\textsuperscript{85} The effect of adoption is to create a new and entire family relationship.\textsuperscript{86} Short of adoption, there is available for the neglected illegitimate child

\textsuperscript{74} Pope 566.
\textsuperscript{75} For a discussion of the reasons underlying this pattern see Pope 566.
\textsuperscript{76} See note 18 supra.
\textsuperscript{77} Legitimation without marriage per N.C. GEN. STAT. § 49-10 (1966) would be little used by this group for similar reasons: there is less stigma attached to the child, so the father would not be motivated to change his status.
\textsuperscript{79} N.C. GEN. STAT. § 48-7 (1966).
\textsuperscript{80} N.C. GEN. STAT. § 48-6 (1966).
\textsuperscript{81} N.C. GEN. STAT. § 48-6.1 (1966). An investigation to determine fitness is conducted after the mother has had a third illegitimate child; the county welfare director is instructed to ascertain whether the children are living in such conditions as to endanger their health and general welfare. N.C. GEN. STAT. § 110-25.1 (1966).
\textsuperscript{82} N.C. GEN. STAT. § 48-13 (1966).
\textsuperscript{83} N.C. GEN. STAT. § 48-14 (1966).
\textsuperscript{84} N.C. GEN. STAT. § 48-25 (1966).
\textsuperscript{85} N.C. GEN. STAT. § 48-29 (1966).
\textsuperscript{86} N.C. GEN. STAT. § 48-23 (1966).
foster home or institutional placement. Although the fact that a woman has had births out of wedlock is not sufficient grounds to declare her an unfit mother, it is a statutory basis for investigation into the welfare of her children.

How do these statutes work in practice? The most obvious conclusion is that adoption and foster homes are predominantly for white children. Although 80 per cent of the state's illegitimates are nonwhite, only 20 per cent of the adopted children are nonwhite. Foster homes are far more frequently used by county welfare departments in the western part of the state, where there are few Negroes. Over half of the adopted children are illegitimate (including over four-fifths of the cases handled by the welfare department). Adoptions are a significant avenue of alleviation for white illegitimates, and the number of placements has been steadily increasing over the past ten years. Fewer Negro children born out of wedlock are released for adoption; they are more frequently cared for by relatives. Welfare directors and caseworkers also point out that few Negro families apply to adopt a child or to serve as a foster home. In all probability there are few interracial adoptions; indeed, these may be against the policy of the statute.

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89 NCCSS Report 10.

90 Division of Research and Statistics, N.C. State Board of Public Welfare, Summary of North Carolina Adoption Report 1965-66 ( Mimeograph). There were 1,982 white children and 503 nonwhite children adopted. Of the nonwhites, only 81 were placed by a public agency (the Department of Public Welfare) or a private agency. The great majority were placed by or with relatives. Id. Of the already few nonwhite adoptions, then, fewer still are handled by the regular adoption "system."

91 Id. There are four types of adoptive placement in North Carolina: agency (welfare department or one of four private agencies); independent (direct placement by parent or guardian); relative (usually adoption by spouse of parent); and re-adoption (adoption of an adopted child). Division of Child Welfare, N.C. Dept. of Public Welfare, Manual for Work with Children §§ 381, 501 (1963).

92 Biennial Report 52, Table 19. Recently, however, some agencies have reported a tendency toward decline in the number of applications for adoption; see Readings in Adoption 530-31 (E. Smith ed. 1963).

93 NCCSS Report 14.

Enforcement of Support

If the law cannot in most cases enable an illegitimate child to reap the advantages of a normal family, it can at least assure him the financial support of his parents. Welfare personnel, sensitive to "anti-welfare" attitudes, and county commissioners, fearing a drain on their limited funds due to the increasing illegitimacy rate, have criticized the present procedure for handling non-support. County directors of public welfare have urged stiffer penalties for parents who desert and fail to support their children, and reciprocal agreements between counties on the handling of inter-county non-support cases. Several commissioners regarded the lax enforcement of present laws as an "obstacle" to more effective action against births out of wedlock. These objections (they are not limited to North Carolina) have been made for some time, and the General Assembly has responded in recent years to some of them.

The traditional, and until 1967 the only means of enforcing the putative father's duty to support his child, was to prosecute him under section 49-2 of the General Statutes. This law makes it a misdemeanor willfully to fail to support the child; begetting the child is, in itself, no crime. The judge is given wide discretion among remedies: prison, suspended sentence, bond, probation; he may order that the defendant pay the medical expenses of birth as to be issued after adoption, specifies that it shall bear the "race of adoptive parents." The "Guide for the Study of an Adoptive Home" used by child welfare workers places emphasis on the parents' appearance. Stress throughout is laid on the idea that, since there will be strains caused by the new parent-child relationship itself, as few additional strains as possible should be allowed to develop. Division of Child Welfare Manual, supra note 91, at § 504.

Evans, supra note 36, noted an "anti-welfare" sentiment in the state and said it should provoke a search for better laws.

Id.


Eighteen years ago Brenner was urging that the states adopt uniform statutes, extradition, reciprocity, and procedures for establishing paternity. Brenner, supra note 7.


State v. Tyson, 208 N.C. 231, 180 S.E. 85 (1935). Some think it ought to be made a crime to father a child out of wedlock, e.g., Evans, supra note 36.


Id.
well as a sum for support determined by his financial means and earning capacity. Restrictions on the law, though, limited its usefulness in some cases. There is a statute of limitations of three years, tolled only by a payment to the child. The child is unable to initiate prosecution, and has no recourse if the mother declines to swear out a warrant. Even if it were in the best interest of the child, the father could not have custody and the child would lose "support" in a wider sense than the financial one. These problems were alleviated when the 1967 General Assembly provided for paternity actions regarding illegitimate children which may be brought by the father or the child, as well as the mother. Establishment of paternity results in the mother and the father each having the same rights and obligations concerning custody and support as though their child were legitimate. More effective enforcement of the right to support can be expected under the statutes protecting legitimate infants, which thus became applicable. Willful neglect or refusal to support a child is for either parent a misdemeanor which is not subject to any statute of limitations until the child is eighteen years old. If the refusal to support is accompanied by abandonment and concealment from the child for a period of six months, the crime becomes a felony. Proof of the crime is aided by presumptions, and is thus less difficult than prosecution under the bastardy section, where the question of intent can be a vexing one.

These advantages may lead welfare departments to require unwed mothers who are receiving, or potentially might need, Aid to

103 N.C. GEN. STAT. § 49-7 (1966). The study of welfare personnel indicates that many would prefer that the Department of Public Welfare set the support amount, on the grounds that they know the situation better than the judge, and that many judges are too lenient.


105 N.C. GEN. STAT. § 49-5 (1966). Allen v. Hunnicutt, 230 N.C. 49, 52 S.E.2d 18 (1949). The local director of the welfare department can act in place of the mother if there is a danger the child might become a public charge.

106 Jolly v. Queen, 264 N.C. 711, 142 S.E.2d 592 (1965).


109 N.C. GEN. STAT. § 49-15 (Supp. 1967). The action does not, however, have the other effects of legitimation. See p. 824 supra.


Families with Dependent Children to institute civil actions to establish paternity rather than prosecutions for non-support, as is now their practice.\textsuperscript{114} Certainly unwed mothers should be encouraged to establish paternity within the three-year statute of limitations\textsuperscript{115} in order to preserve recourse against the father for support if it should become necessary, or if the father's financial situation should change, before the child reaches eighteen. Such action would at least increase the possibility that he might escape the fate of most illegitimates who are sustained under court order: they are supported in a manner to which no child should be accustomed. But due to the economic circumstances in which the great majority of children out of wedlock are born,\textsuperscript{116} reliance on the father for meaningful "support" is finally unsatisfactory.\textsuperscript{117}

\textbf{Welfare Services}

The focus of the controversy over the state's proper response to the problem of illegitimacy has long been the Aid to Families with Dependent Children program (AFDC).\textsuperscript{118} Where a child is deprived

\textsuperscript{114} The chairman of the State Board of Public Welfare has criticized the "ritual" of having AFDC mothers swear out warrants because too often "lassitude, overwork and simple frustration result in essentially no action." Howison 8. The new law will help remove at least the procedural causes of frustration. County welfare departments are authorized to employ special attorneys to investigate and prosecute all non-support and abandonment cases, by N.C. Gen. Stat. §§ 108-14.01-.03 (1966).

\textsuperscript{115} N.C. Gen. Stat. § 49-14(c) (Supp. 1967).

\textsuperscript{116} See p. 2 & note 6 \textit{supra}.

\textsuperscript{117} N.C. Gen. Stat. § 49-14(c) (Supp. 1967).

\textsuperscript{118} For this reason, the so-called "wrongful life" cases are largely irrelevant, where the suit is by an infant against his father for the damages due to his illegitimate status. Courts have thus far denied relief; Zepeda v. Zepeda, 41 Ill. App. 2d 240, 190 N.E.2d 849 (1963), cert. denied, 379 U.S. 945 (1964); Pinkney v. Pinkney, 198 So. 2d 52 (Fla. App. 1967). Where the suit is against a third party, courts have been hindered by the logical difficulty in allowing a child to claim that his own birth was a tort; Williams v. State, 46 Misc. 2d 824, 260 N.Y.S.2d 953 (Ct. Cl. 1965), rev'd, 25 App. Div. 2d 906, 269 N.Y.S.2d 786 (3d Dept.), aff'd, 18 N.Y.2d 481. 223 N.E.2d 343, 276 N.Y.S.d 885 (1966); Gleitman v. Cosgrove, 49 N.J. 22, 227 A.2d 689 (1967); \textit{but cf.} Custodio v. Bauer, 59 Cal. Rptr. 463 (Dist. Ct. App. 1967), in which a mother of nine children was allowed damages from a doctor when she had another child, after he negligently performed a sterilization operation. See Notes, 46 N.C.L. Rev. 205 (1968), 46 N.C.L. Rev. 948 (1968).

of his father's support due to abandonment, death, or incapacity, and has no other means of subsistence, the federal, state and county governments have assumed the burden of being the child's last resort. There are strict eligibility requirements limiting the coverage and perhaps the effectiveness of the program: qualifications of age, residence, employment, need, and even of the mother's sex habits must be met. Despite these restrictions, and the fact that


120 The child must be under sixteen, or attending school fulltime (no eligibility during summer vacation); N.C. GEN. STAT. § 108-50 (1966).


122 No parent may be the payee of an assistance grant if the parent is employable but unemployed, unless there is no employment available or the parent is needed in the home for care and supervision of children. N.C. GEN. STAT. § 108-50(2) (1966). Parents and children over sixteen must register with an employment service. N.C. GEN. STAT. § 108-50(3) (1966). "Available" employment does not include work for exploitive wages. PUBLIC ASSISTANCE MANUAL § 210; Raleigh News & Observer, July 20, 1967 at 2, col. 3.

123 Under the "man in the house" rule, no AFDC payments could be made to a mother who had a "common law relationship" with a man. PUBLIC ASSISTANCE MANUAL § 440. This restriction was the subject of much confusion in county welfare departments; some counties strictly enforced the rule by cutting off aid to any mother who had sexual relations with a man, while others simply ignored it. A similar rule in Alabama was found unconstitutional as a denial of equal protection to the children whose aid was terminated, in Smith v. King, 277 F. Supp. 31 (M.D. Ala. 1967), prob. juris. noted, 36 U.S.L.W. 3294 (Jan. 23, 1968). Perhaps provoked by this decision, and certainly by the vagueness of the rule, the N.C. State Board of Public Welfare modified the restriction by providing that no child would be dropped from the welfare rolls unless the man "acts as a parent to the child and treats the child as his own." Raleigh News & Observer, Feb. 27, 1968 at 1, col. 1. It is uncertain whether the new North Carolina rule could survive constitutional attack, since even a man who "acts as a parent to the child" has no legal duty to support the child unless he adopts it. The modification would not seem sufficient to save the rule from condemnation under the equal protection test.
North Carolina's assistance payments are relatively minimal,\(^\text{125}\) AFDC is the subject of heated debate. A frequent charge, and the one which most concerns us here, is that AFDC "encourages" and "rewards" illegitimacy. Supporting this charge is the suspicion that unwed mothers apply for assistance instead of seeking available jobs, and continue to have children in order to increase their payments. How true is this picture?

It should first be pointed out that the high rate of illegitimacy among AFDC children is a result of two basic factors: first, relatively more Negroes receive assistance than whites, so their higher illegitimacy rate is reflected on the welfare rolls;\(^\text{126}\) second, the requirement that the child be deprived of support of a parent would be more frequently met in cases where the father was never married to the mother. Thus, in 16.2 per cent of all AFDC families in 1958 a majority of the children were illegitimate, and 17.4 per cent of all children receiving AFDC were born out of wedlock.\(^\text{127}\) However, only 1.7 per cent of the AFDC children were born illegitimately \textit{after the mother was already receiving assistance},\(^\text{128}\) and the average family with children born out of wedlock was smaller than other AFDC families.\(^\text{129}\) There are, then, few AFDC mothers who have illegitimate children after they began receiving assistance, and certainly no pattern to suggest that those few acted intentionally. Indeed, since the median number of years a family spends receiving aid is less than two and a half,\(^\text{130}\) there is limited opportunity for such a scheme.

Assertions that "[w]e have recipients who simply prefer their welfare check—small though it is—to work—unhappily in many

\(^{125}\) As of the last detailed study of the AFDC program, North Carolina paid a lower share of the AFDC grant than any other state, 10.9 per cent, far below the national average of 30.3 per cent. \textit{N.C. State Board of Public Welfare, Facts on Aid to Dependent Children in North Carolina} 4 (1959). Average payments were over 25 dollars below the amount necessary for subsistence. \textit{Id.} at 31-32. In 1961, the average AFDC payment in North Carolina was one-fourth less than the national average payment. Bureau of Family Services Letter, \textit{supra} note 4, at Table 55.

\(^{126}\) See note 4, \textit{supra}. The rate for both white and Negro recipients is higher than that for whites and Negroes in general. Bureau of Family Services Letter, \textit{supra} note 4, at Table 34.

\(^{127}\) \textit{Id.} at 23.

\(^{128}\) \textit{Id.} at 23.

\(^{129}\) Half these families had only one child, and an additional one-fourth had two children.

\(^{130}\) Bureau of Family Services Letter, \textit{supra} note 4, at Table 5.
cases work which in the labor market open to them would provide small compensation," are admittedly more indicative of the state's economy than of recipients' inclinations. State policy has not responded to this analysis. North Carolina has not taken advantage of the 1961 amendment of AFDC by Congress which allows payments to children who have been deprived of the support of a parent because of unemployment, nor does it provide funds for training AFDC parents. Instead, state action is directed toward those "who simply prefer their welfare check—small though it is—to work . . . ." Tight restrictions on eligibility are deemed insufficient: the State Board of Public Welfare has recently approved an independent "investigative agency" to reduce the welfare rolls. Chairman Howison of that Board has called for "more firmness" in terminating eligibility where employment is declined. Characteristic zeal in eliminating cases obscures the plight of the ultimate client: the child.

To seek provocation for "anti-welfare" sentiment in burgeoning welfare rolls or rapidly increasing cost to the state is to impute ignorance to legislators and board members. North Carolina's AFDC caseload has been declining steadily for five years, in sharp contrast to the national trend. Growth of public welfare expenses is due, not to greater amounts spent on fewer AFDC clients, but to addition of other programs, inflation, and the increase in the state's popula-

131 Howison 5.
132 42 U.S.C. § 607 (1964). This program is referred to as AFDC-U in those states which have adopted it.
133 Raleigh News & Observer, July 20, 1967, at 2, col. 3. A county welfare director states that counties have "begged" that this be put in the AFDC budget. Id.
134 See notes 120-124 supra.
135 Raleigh News & Observer, Feb. 27, 1968, at 1, col. 1. Experience with such agencies in other areas has not been entirely satisfactory. Their methods have been protested, see Raleigh News & Observer, Feb. 28, 1968, at 2, col. 2, and at least once found unconstitutional, in Parrish v. Civil Service Comm'n, 66 Cal. 2d 260, 425 P.2d 223, 57 Cal. Rptr. 623 (1967).
136 Howison 10.
137 "[County welfare director] Evans expressed concern about the 'anti-welfare' sentiment which is evident at many levels 'especially among members of the General Assembly.'" Raleigh News & Observer, Aug. 16, 1967, at 1, col. 2.
139 These include medical assistance for the aged, aid to the permanently and totally disabled, medical expenses for other recipients, and dental care for the aged. Raleigh News & Observer, July 20, 1967, at 2, col. 3.
North Carolina remains eighth lowest nationally in state welfare expenditures. There is a more fundamental reason for official antipathy to welfare recipients: uncertainty as to whether the state should be, in effect, the support of last resort of illegitimates and other dependent persons. The contention that it should is sometimes castigated as "the philosophy that the world owes me a living," and the proper welfare approach is seen to be, not rehabilitation, but a "dole" as meager and unattractive as possible. Herein lies the major source of conflict over the caseworker's role. The State Department of Public Welfare has adopted the "defined services" mode of social work, in which the caseworker, far from being a mere conduit for a monthly check, is encouraged to bring all the resources of the community to bear on the client's problems. In doing so, the welfare worker develops a personal relationship with the client, true independence, it is supposed, requires a sense of dignity. But the legislators and policy-makers who object to state-supported welfare prefer conflict between caseworker and client. They accurately sense the shared interests, and sometimes express their disfavor in erroneous charges: "We're in a give-away program and the more money a welfare worker can give away the higher pay the worker gets." In the argument over whether welfare benefits should be regarded as a matter of entitlement or a matter of grace, it may surprise some to note that nearly all clients are among the

140 1965 VITAL STATISTICS 1.
142 Howison 2.
143 Sources for this approach in the history of American social welfare legislation are discussed in WEDEMEYER & MOORE, supra note 119, at 326-29. "Anti-welfare" sentiments have this effect on the national level, too. A good example is the recent passage of a "freeze" on the AFDC payments limiting recipients to the proportion of the state population they represented on January 1, 1968. 42 U.S.C. § 603, as amended, U.S. CODE CONG. & AD. News 4662 (1968).
144 PUBLIC ASSISTANCE MANUAL § 110.
145 Id.
146 Remarks of Board member Dr. Bruce Blackmon in support of an independent investigating agency, at N.C. State Board of Public Welfare meeting; Raleigh News & Observer, Feb. 27, 1968, at 1, col. 1. Salaries are actually set by the State Personnel Office, under N.C. GEN. STAT. §§ 176-4,-5(a) (Supp. 1967), and are not related to the amount of money "a welfare worker can give away."
147 See Howison 3; Reich, The New Property, 73 YALE L.J. 733 (1964).
most "conservative" and docile, figuring they have no rights at all. Whether the rehabilitation and development of the dependent illegitimate child and unwed mother will be hastened by encouraging this attitude is the essence of the debate over the AFDC program. The writers doubt that it will.

LOCAL POLICY AND IMPLEMENTATION

Perception of the Problem

The initial question sought to be answered through the questionnaires was whether illegitimacy is viewed as a problem by county commissioners and welfare workers, and, if so, in what way. The large majority of county commissioners replying felt that illegitimacy was a serious problem in their localities, both in terms of cost to the public and in social and moral effects. Many were troubled with the "tremendous drawing on the taxpayer's money," as one eastern county commissioner phrased it. Others were concerned about the "emotional deprivation to the child," while one commissioner felt that illegitimacy often "sets a trend for future generations of the same family."

This latter observation brought to mind a case history of a Negro family related by a social worker from a rural Piedmont county. The grandmother of this "family," although never married, has lived with five common law husbands. One of her daughters has given birth to five illegitimate children following at least three different relationships. This daughter has never accepted AFDC payments, and she finally obtained a birth control device after bearing her fifth child. Of these five grandchildren, three of them (one a thirteen-year-old) have produced five more illegitimate children.

Although unusual and tragic, this story cannot be called unique. Illegitimacy sometimes does recur with succeeding generations. However, as mentioned previously, illegitimacy is most accurately described as a symptom of more basic misfortune. The poverty and ignorance which breed births out of wedlock should be the real cause

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149 Although North Carolina now apparently will recognize a valid foreign common law marriage, [Harris v. Harris, 257 N.C. 416, 126 S.E.2d 83 (1962)] this state has yet to recognize such a marriage within its own boundaries. A vintage decision is still relied upon for this view. See State v. Wilson, 121 N.C. 650, 28 S.E. 416 (1897) and 41 N.C.L. Rev. 466 (1963).
150 L. Young, OUT OF WEDLOCK 88-89 (1954). See note 5 supra.
for concern. In fact, the majority of social workers interviewed did not seem to attach a great significance to the bare fact of illegitimacy alone. It is true that the responses from welfare workers indicated that unwed mothers are sometimes reluctant to inform their physician or caseworker of pregnancy, thus decreasing their chances of proper pre-natal care. Likewise, a slight majority of the caseworkers indicated that unwed mothers are often less responsive than wed mothers to suggested aid from birth control clinics and other social agencies.

However, it seems significant that most caseworkers saw more similarities than differences between wed and unwed mothers receiving public assistance. One caseworker who saw "little, if any, difference" in response between wed and unwed mothers went on to observe that, in any event, there were "very few two-parent families" among her clients. A caseworker from a large urban county remarked that the real variations among welfare recipients were in terms of "family size, types of employment, efforts to get and keep jobs, age, education, mental capacity; almost everything but marital situation." Furthermore, only two of the thirty-five social workers interviewed were able to give an accurate estimate of the incidence of illegitimacy among AFDC recipients in their county. These findings could suggest that welfare workers tend to view illegitimacy as merely tangential to the more fundamental problems of underprivileged persons.

In general, then, it might be said that illegitimacy is seen perhaps by caseworkers, if not always by county commissioners, as only part of a larger problem. Yet illegitimacy remains, for reasons mentioned earlier, as a worthwhile topic for independent study. The majority of questions were therefore directed toward discovering how these people comprehend and evaluate the steps being taken by North Carolina to alleviate the specific problem of illegitimacy.

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1 Of the caseworkers interviewed, 64 per cent indicated that unwed mothers receiving AFDC payments did not usually inform them of subsequent pregnancies.

2 Of the social workers, 58 per cent saw no difference in response between wed and unwed mothers. 38 per cent found wed mothers to be more responsive, while only 4 per cent felt that unwed mothers showed better response.

3 When asked about the general cooperation of their clients, most caseworkers (69 per cent of those interviewed) saw no difference between wed and unwed mothers. The remaining 31 per cent felt that wed mothers were more cooperative.
County Commissioners

In explaining the reasons for sending questionnaires to the county commissioners of North Carolina, it should be emphasized that the position held by these men is an important one. In addition to imposing duties and powers in many other areas of government, the office of county commissioner compels close contact with public endeavors directed at illegitimacy. The North Carolina General Statutes grant the commissioners broad powers over county taxation and over the application of county funds. As a result, the fiscal policies of each board of commissioners can have an important bearing on local programs.

The law of this state declares that the county commissioners must provide by taxation for the "maintenance, comfort and well-ordering of the poor" and, among other things, that they may establish homes for indigent children. The legislature has thus logically conferred control of a large percentage of the funds for local welfare and health departments upon the county commissioners. Chapter 108 of the General Statutes, which deals with public welfare, provides in one section that "full authority is hereby given to the boards of county commissioners of the several counties to levy, impose, and collect the taxes herein required for the special purpose of aid to dependent children as defined and provided for in this article." With regard to local health departments, county commissioners are authorized by North Carolina's public health statutes

158 During the fiscal year 1965-1966 approximately 86 per cent, or almost nine million dollars of the funds for local health departments in North Carolina came from county sources. Only about 14 per cent of the funds were contributed by the state and less than one per cent came from other sources. It is noteworthy that during the period from 1950 to 1966 the amount of county funds disbursed to local departments increased by 229 per cent, while state funds increased only 39 per cent and funds from other sources decreased by 77 per cent. Biennial Report 82 (1966).

Of the more than 30 million dollars spent in AFDC payments by the state welfare department during the fiscal year 1965-1966, over nine per cent, or almost three million dollars came from county funds. The federal government contributed nearly 24 million dollars and the state approximately 3.7 million dollars.

to "levy at any time a special tax for the preservation and promotion of the public health."\textsuperscript{160}

Obviously, then, county commissioners wield a strong hand in the financial affairs of local social agencies. In addition, they occupy an important role in the policy-making and administrative aspects of the battle against illegitimacy. Illustrative of this fact is the requirement that one of the three ex officio members of each county or district health department be the chairman of the board of county commissioners.\textsuperscript{161} And, although there is no absolute requirement that a county commissioner be a member of each local welfare board, one of the three members of the board is appointed by the commissioners, and he may be one of their own number.\textsuperscript{162} Other functions of the commissioners include the authority to review and alter any relief payments made by the county welfare board\textsuperscript{163} and the duty, in appropriate circumstances, to have sterilization operations performed at the public expense.\textsuperscript{164}

This cursory examination of the pertinent statutes reveals that most county commissioners should be at least indirectly involved with the problem of births out of wedlock. This was the basic reason for the solicitation of their views on illegitimacy. A further reason was the fact that, even if a commissioner takes no active part in this specific area of social concern, he should nonetheless have information of value. County welfare boards are required by law periodically to submit to the board of county commissioners detailed reports including information and statistical data pertaining to such matters as dependent children, welfare expenditures, and estimates of future county funds needed for welfare purposes.\textsuperscript{165} Furthermore, the commissioners are required to keep their own itemized records of such receipts and disbursements.\textsuperscript{166}

Our questionnaires were therefore designed in part to determine whether county commissioners do in fact have adequate information

\begin{footnotes}
\item[160] N.C. GEN. STAT. § 130-21 (1964).
\item[161] N.C. GEN. STAT. § 130-13, 14(2) (1964).
\item[162] N.C. GEN. STAT. § 108-11 (1966). The county commissioners also have authority under this statute to increase the size of the county welfare board to five members, in which case two members are selected by them.
\end{footnotes}
upon which to base their decisions. Unfortunately, the results of the questionnaires indicated that most commissioners do not. The majority stated that they did not receive adequate information either from state or local agencies, nor did most receive any information on a regular basis. In light of the statutes requiring reports to county commissioners by the welfare department, this finding is particularly interesting. Apparently such reports, if submitted at all, seldom contain information pertaining to illegitimacy. The inadequacy of data available to commissioners was further highlighted by their general lack of knowledge of illegitimacy rates within their counties. Although their estimates were somewhat more accurate than those given by social workers, the large majority either had no idea of the rate or made very poor guesses.

Commissioners were also asked to choose from a list of services and agencies those available in their particular county dealing with illegitimacy. The one mentioned most often, although not by all commissioners, was Aid to Families with Dependent Children. Others mentioned frequently were adoption services by the welfare department, family planning services, mental health programs, homemaker service, maternal and child care clinics, and sterilization.

It should be pointed out that every county in North Carolina is served by a local welfare and health department. Of the services singled out by the commissioners as available in their county, most were the responsibility of one of these two departments. For example, AFDC, a division of welfare assistance, must by law be avail-

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167 39 per cent of the commissioners considered their information from state agencies adequate, and only 28 per cent thought local agencies provided sufficient information.
168 Only 33 per cent received regular information. The health and welfare departments were the only specific agencies mentioned by those commissioners who elaborated on this question.
169 See p. 835 supra.
170 Approximately one commissioner in five either gave exact percentages or close estimates.
171 Private adoption services were mentioned very infrequently.
173 As of January 1, 1967, 54 counties operated separate health departments and the other 46 were combined into 21 district departments. Ten of these districts, comprising 23 counties, did not combine the budgets of the member counties. The remaining eleven district departments included 31 counties, and each district consolidated both services and funds. Thus, a total of 69 county health departments maintained individual budgets. Interview with E. Ponder, supra note 50.
able in every county.\textsuperscript{174} Yet only 55 out of 73 county commissioners seemed to view AFDC as concerned with illegitimacy. Moreover, five of these 55 did not realize that AFDC is financed partly by county funds.\textsuperscript{175} Approximately one out of four county commissioners, then, did not possess even elementary knowledge about one of the single most important programs dealing with poverty and illegitimate births. What this fact means is open to conjecture, but it might be reasonable to infer the existence of apathy in this general area on the part of some commissioners, or, more likely, a lack of communication among this state's public agencies.

Although the commissioners are perhaps not fully aware of the precise extent of the problem, what they think about it remains important, and the questionnaires further sought to determine some of their general attitudes. As for present public efforts, the commissioners rated family planning, sterilization,\textsuperscript{176} AFDC, and sex education, in that order, as the programs which they considered especially effective in dealing with aspects of illegitimacy.\textsuperscript{177}

It might be mentioned at this point that the consensus of the four health departments returning questionnaires was that the county commissioners were generally sympathetic toward the efforts of the health department and that commissioners had few reservations about birth control programs. Very few public health workers, however, were aware of any efforts by commissioners to seek greater financial assistance.\textsuperscript{178} And most of the commissioners felt that the county should bear a smaller proportion of expenditures on programs dealing with illegitimacy.\textsuperscript{179} Reasons for this view were offered by a few commissioners, most of whom thought that the voice of local government was already too small in proportion to its financial contributions.

When asked whether the overall government expenditure on il-
legitimacy problems should be increased, "yes" was the most frequent answer given by the commissioners, and an overwhelming majority were dissatisfied with the existing program within their county. A commissioner from a western county elaborated upon his dissatisfaction: "We need more planning for these children, such as paternity and legitimation of children kept by natural mothers. More adequate legal services would be of help. We need our clinics publicized a lot more, increased home-maker services and more referrals from local agencies and doctors for maternity home care for youth. More intensive casework services are needed."

Many other criticisms of the existing system were voiced by commissioners. One felt that the operation of the welfare department required too many personnel. Several thought "better laws" were needed, but none gave any specific proposals. The two most frequent criticisms of illegitimacy efforts were general lack of public education and public apathy to the problem in general. A questionnaire signed jointly by the entire board of commissioners from one county cited the necessity of "creating an incentive in low income and [low] morality populous [sic]." Many commissioners favored mandatory sterilization of unwed mothers, usually recommending such measures after birth of a third illegitimate child. Others complained that support payments were difficult to obtain. Obviously, the criticism and suggestions by the county commissioners were extremely varied and difficult to categorize. The best that can be done is roughly to divide the difficulties seen by the commissioners into the areas of governmental inadequacies, problems with public attitudes, and environmental deficiencies.

In summarizing, it should be remembered that county commissioners are concerned with many matters within their own counties in addition to the problems of illegitimacy. Their sources of information are often inadequate, and they are reluctant to appropriate additional funds for dealing with the problem. Yet most commissioners are at least aware that the problem exists, and it is hoped that more of them in the future will urge imaginative use of their county resources to help eliminate the problems associated with illegitimacy.

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180 45 per cent thought too little was spent; 38 per cent thought the amount sufficient, and 17 per cent thought the amount too large. A commissioner of the latter opinion gave a rather caustic reason for his answer, including a reference to the "Welfare Leech."

181 73 per cent expressed dissatisfaction.
Social Workers

While it was felt that the function of county commissioners in the area of illegitimacy should be explained, the importance of the social worker is self-evident. Social workers are, of course, directly involved with those who suffer the consequences of poverty and births out of wedlock. Our interviews with these persons proved highly illuminating.

At the outset, it can be said that the caseworkers and supervisors interviewed were pleased with the internal operation of their departments. It was found that caseworkers are given a great deal of discretion in dealing with their clients.\textsuperscript{162} Although their decisions are occasionally reversed by superiors, such reversals are infrequent,\textsuperscript{163} indicating no significant interference with the average caseworker by those above him. And most caseworkers felt free to discuss policy matters as well as individual cases at conferences with their supervisors. The small number of supervisors interviewed helped confirm the feelings of the caseworkers. All stated that, although they reviewed cases on an individual basis, they very rarely reversed the decisions of their caseworkers, usually because caseworkers first sought their advice when faced with unusual problems. One supervisor stated that "caseworkers are encouraged to use their own discretion." Such comments were the rule rather than the exception. The decisions of the supervisors themselves were occasionally reversed by their county welfare director,\textsuperscript{184} but usually only when a particular case was called to the attention of the director by the state welfare board or someone outside the welfare department.

From all this information at least one conclusion can be drawn: in their dealings with each other, the personnel of North Carolina's local welfare departments work quite harmoniously together. The major factors which prevent efficient internal operation seem to originate from sources not entirely within the control of the local

\textsuperscript{162} When asked who in their department decides the extent and type of services to be made available to clients, 61 per cent of the caseworkers answered that they decide "solely in terms of the case before them," and the decisions of 26 per cent were limited only by "broad but flexible guidelines."

\textsuperscript{163} 45 per cent of the caseworkers admitted that their decisions had been reversed from time to time by their supervisors, but most added that such reversals were rare.

\textsuperscript{184} Six supervisors met weekly with their directors. Two saw their directors only monthly and three replied that they conferred only "occasionally" or "very rarely" with their directors.
departments. Almost all of the social workers felt, for instance, that required paper work seriously interfered with their work.\textsuperscript{185} It might be inferred from their answers that an increased number of purely clerical personnel would greatly streamline the operation of local welfare departments. Social workers, after all, best utilize their talents as personal counselors, not as clerks or secretaries. A second hindrance to efficient welfare department operation is the size of the case load carried by the individual social worker. Most caseworkers felt that with lighter caseloads they would be able to see their clients more often and be of more assistance in helping welfare recipients utilize other resources.\textsuperscript{186} It is true that a minority of the caseworkers described their caseloads as low enough. One even wryly suggested that "recipients shouldn't complain about free services." The fact remains, however, that most social workers see heavy caseloads and voluminous paperwork as major obstacles to the efficient operation of their own welfare departments.

Information was also sought concerning external relations with other agencies and with individual clients. The answers to questions in this area were generally encouraging. A list of possibly available agencies and resources outside the welfare department was prepared and each social worker was asked to note the ones which existed in his county.\textsuperscript{187} The local health department was, of course, always mentioned. Other services mentioned most frequently were family planning programs (under the direction of the health department), Head Start, mental health services, homemaker services and the Salvation Army.\textsuperscript{188} Private charity was mentioned very infrequently. When asked which of those existing services were especially helpful, the one most often mentioned was the Federal Elementary and Secondary Education Act. This was somewhat surprising since the list

\textsuperscript{185} 86 per cent of the social workers felt that paperwork hindered their efforts and of these most said the interference was extreme.

\textsuperscript{186} About three-fourths of the caseworkers were of the opinion that they could be of more service with a lighter caseload.

\textsuperscript{187} The Durham Community Planning Council publishes a booklet listing virtually every service and program available in the locality. The booklets are made available to the Durham County welfare department and no doubt are an invaluable aid to social workers, especially those new to welfare work or to the city of Durham. A similar resource manual is utilized by the Nash County welfare department.

\textsuperscript{188} Other services available in some counties included vocational training, anti-poverty programs, day care services, and the Red Cross. Legal aid was also available in many counties. The Burke County welfare department employs a "staff attorney" who gives legal services to welfare clients.
prepared for the questionnaires did not include this program. Other services considered most helpful were mental health programs, the Salvation Army, public housing projects,¹⁸⁹ vocational training services, and anti-poverty efforts. Also drawing praise in a few counties were juvenile courts and probation policies.¹⁹⁰

Because the health and welfare departments are the two major state agencies dealing with illegitimacy, a special effort was made to discover how well the two cooperate locally. Questionnaires were returned by four North Carolina health departments, all of which listed the public welfare department as among the most helpful of local agencies. By the same token, a large majority of welfare workers felt that the local health department was very cooperative.¹⁹¹ A welfare supervisor from an urban area thought the health department to be very helpful in the area of maternal and child health but "not so much so in other areas." The more common answer, however, was exemplified by a social worker who labeled the health department as "my most used resource."

With but a few exceptions, it can be said that most social workers are satisfied with the internal operation of their departments, are well informed of supplemental services and programs available, and have a good working relationship with most other public service agencies. One other objective of the welfare questionnaires was to ascertain what sort of relation the caseworkers maintain with the individuals whom they serve and how these clients are viewed by the workers. The results of questions to this effect proved the average North Carolina welfare worker to be an optimistic person.

When asked if their clients usually responded to their recommendations, every caseworker replied with at least a qualified "yes."¹⁹²

¹⁸⁹ In Wilson County, however, public housing is not available to an unwed mother. If an unmarried woman has a child, she must vacate.

¹⁹⁰ The position of chief probation officer for juvenile courts is conferred by statute upon the county director of public welfare. N.C. GEN. STAT. § 110-31 (1966). Furthermore, all probation officers of the juvenile court may, by written agreement between the judge of the court and the county welfare director, be attached to the staff of the county welfare department. N.C. GEN. STAT. § 110-31.1 (1966).

¹⁹¹ Only one social worker out of every eight felt that the health department was not as helpful as it should be.

¹⁹² Of 28 responses to this question, no caseworker answered with a flat "no." All of the caseworkers state that they normally investigated to determine whether their clients do in fact respond to recommendations. The usual method of follow-up by caseworkers included both a check with the individual client and with the agency to whom he had been referred.
A representative answer came from a social worker from a mountain county who replied, "As a rule, clients are responsive." He went on to add that response "varies greatly with the client and with the ability of caseworkers to work with people." A caseworker in an eastern county noted good response from welfare recipients and remarked that there were few clients "who don't or won't or are not capable of responding." From the replies to this question it can be inferred that, at least in the eyes of their caseworkers, most welfare recipients will try to help themselves if they receive proper guidance.193

Caseworkers were also asked how they viewed their clients individually, particularly in light of their statutory obligations towards them. On the subject of unfit mothers most welfare workers said that they met such mothers only rarely. And when they did encounter such an individual, they considered legal action only as a last resort.194 Most were very reluctant to break up a home, for, as a county health director put it, "A bad mother is better than no mother." Although North Carolina law provides for adoption or foster home placement of neglected children, one welfare worker summed up the general attitude toward removing a child from his parents (or parent) in his statement, "Foster homes and orphanages are poor substitutes."

The law of this state (also) provides that whenever three or more illegitimate children have been born to any unwed mother, the Bureau of Vital Statistics must notify the local health director who in turn is required to furnish this information, along with the name of the mother, to the county welfare director. If, after investigation and consultation with the mother, the director is dissatisfied with the environment of the child he may petition to bring the child within the jurisdiction of the juvenile court.195 The court then has authority to provide for the adoption of the child without consent of the mother.196 When asked if they had investigated to determine the fitness of a mother merely because she had borne three illegitimate

193 In evaluating the response of their clients, welfare workers do not draw a great distinction between wed and unwed mothers. See p. 835 supra.
194 See p. 825 supra.
children, most caseworkers indicated that they had done so. With only two exceptions, such investigations were made following notification of the circumstances by the local health department. This response implies, if nothing else, that the health and welfare departments are carrying out their statutory duty. More significant, however, is the fact that many welfare workers who were asked this question were quick to reiterate that marital status should not be determinative of the fitness of a mother.

As a final inquiry, welfare workers were asked several questions concerning birth control for their clients. Nearly all of them felt that birth control programs were of some use in controlling unwanted pregnancy among AFDC recipients. Most also observed that unwed mothers were usually responsive to suggestions of birth control, and that, as previously mentioned, the difference in response between wed and unwed mothers was not particularly marked. In addition, every caseworker revealed that he had in some cases recommended birth control to persons other than clients, notably to promiscuous children of their clients. Caseworkers frequently stated that they felt there should be no restrictions on the distribution of birth control devices, and many thought that more sex education should be offered in the public schools. These ideas were perhaps best espoused by a public health nurse from an eastern county: "I do not feel that birth control information will make the single girl promiscuous, nor do I feel that we should withhold this information from the promiscuous girl."

In summary, it must be said that the social workers of this state are intelligent and dedicated people. Some of their ideas may seem advanced, some of their efforts idealistic. But, although they must rely upon sometimes paltry resources, our interviews with these persons left the unmistakable impression that they are making a very significant, if often unappreciated, contribution to the state of North Carolina.

CONCLUSION

Beginning with his first contact with the state, the registration of his birth, the illegitimate child is set off as a breed apart, a "social

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208 Twenty-four of twenty-eight social workers replying to this question (87 per cent) had made such investigations.
209 94 per cent of answering caseworkers were of this opinion.
210 This was the opinion of 93 per cent of the caseworkers.
211 See note 153 supra.
problem." Efforts to prevent his existence have failed. No matter what his race (it is usually nonwhite), he is occurring with increasing frequency. The causes are myriad, and beyond the scope of this comment. But chief among those with which the state has begun to deal are poverty and ignorance. Sex education has just barely started. Birth control programs, especially for the indigent, have attracted greatest reliance as a means of halting the increase in births out of wedlock. Abortion and sterilization are of far too limited normative and practical applicability to be major elements in the state's policy, and criminal laws are nearly useless. It is too soon to tell whether the wide availability of contraceptives will reverse current trends.

It is certain, though, that the unwed mother and her child are here, today, and that state policy makers see them as a danger and a burden. The response has been schizophrenic. The gravity of the problem is exaggerated while services available to help solve it are being restricted. Contradictions and conflict within the governmental process result. These conflicts do not occur laterally, but vertically. That is, on the common operational level, welfare departments and health departments are found to be cooperating well in serving the same clients. But the welfare department personnel on the local level are in conflict with policy-making bodies "above" them. They are told to be "hard-nosed" by the State Board, but they are convinced that rehabilitation cannot be attained by bullying. They request that a greater range of services be made available to their clients, but county and state officials believe that too much is being spent already. The basis for this conflict is found in the different ways that illegitimacy is perceived by policy makers, such as the county commissioners, and policy implementers, such as the social workers. County commissioners see the phenomenon of births out of wedlock as a discrete social problem, having particular causes and consequences. Though they are inadequately informed, they seek a definite cure for illegitimacy per se. Social workers, in contrast, do not think in terms of unwed mothers or illegitimate children at all. Their cases are not social problems, but people needing individually tailored services. Illegitimacy is, to them, merely a symptom of more pervasive dilemmas.

Hugh B. Rogers, Jr.
D. James Jones, Jr.
COUNTY COMMISSIONERS QUESTIONNAIRE

COUNTY

1. Do you regularly receive information concerning illegitimacy in your county? ............................................
   (a) If so, what is the source and procedure by which you receive such information? ....................................
   (b) If not, do you have any such information? ................

2. Are your sources of information adequate?
   (a) With reference to state agencies ..........
   (b) With reference to local agencies ........

3. Do you consider illegitimacy a serious problem in your county? ....
   (a) If so, in what way?
      (1) Cost to public ............
      (2) Social and moral effects ........
      (3) Other ........
   Please Comment ..................................

4. Would you give an estimate of the extent of illegitimacy in your county, in terms of the percent of all births per year? ....

5. The following is a list of programs and resources which might be available for dealing with illegitimacy, aiding the unwed mother and the illegitimate child.
   (a) Please place a check before each program available in your county.
   (b) Please place a second check before those programs you consider especially effective in dealing with aspects of illegitimacy.

...... Aid to families with dependent children.
...... Day-care facilities.
...... Maternal and child care for unwed mothers.
...... Family planning services (counseling)
...... Family planning services (birth control devices)
...... Mental health services
...... Private charitable groups
      (Please describe below)
...... Non-support (Bastardy) prosecutions
...... Educational and vocational training
...... Homemaker service
...... Outpatient clinic
...... Adoption services (Welfare Department)
...... Adoption services (Private)
...... Sterilization
...... Sex education
...... Other

6. Of the programs dealing with illegitimacy in your county (directed toward either prevention of illegitimacy, or care of the unwed
mother and her child), which are financed either partly or wholly by county funds?

7. Would you estimate the percentage of total governmental expenditure (county, state, federal) on such programs represented by the county's expenditure?

8. Do you regard the total governmental expenditure on such programs in your county as
   ...... Sufficient?
   ...... Too much?
   ...... Too little?

9. Should the proportion of all such expenditures borne by the county be greater or lesser?

10. Are you satisfied with the effectiveness of the current program in your county?
    (a) If not, do you think your county should:
        (1) Reallocate funds among existing programs? ............
Please Comment .............................................
        (2) Begin new programs? ............
Please Comment .............................................

11. From what sources does the initiative for suggesting new programs derive?
    ...... County Commissioners
    ...... Local Agencies (Governmental)
    ...... Local Agencies (Private)
    ...... State Agencies
    ...... Federal Agencies
    ...... Other

12. What do you regard as the chief obstacles to more effective governmental action in dealing with illegitimacy?

The questionnaires were sent to the 473 county commissioners, and 75 responded. Of these, two sent letters advising that they did not have information sufficient to answer the questions. The 73 completed questionnaires came from 49 of the state's 100 counties. Broken down geographically, there were 14 from the Mountains (11 counties), 21 from the Piedmont (18 counties), and 35 from the East (20 counties). Three came from counties unknown. Although our rate of response was only 15 per cent, the widespread sources of these responses indicate a rough representativeness, with a bias toward the more rural counties. Of the seven metropolitan counties (having cities with over 50 thousand population) we only received questionnaires from two.

APPENDIX II

WELFARE DEPARTMENT QUESTIONNAIRE

1. In the exercise of your function as a caseworker [where appropriate: Supervisor] what supplementary services or resources are
available for clients? [check those mentioned]

- Health Dept. services
- Maternal or child care clinics
- Family planning
- Head start
- Local recreational facilities
- Mental health services
- Non-support prosecutions
- Private charitable groups
  - Supplies
  - Income supplement
- Educational or vocational training
- Homemaker service
- Day care or nursery
- Out-patient clinics
- Salvation Army
- Local anti-poverty agency (specify)
- Juvenile and probation authorities
- Legal aid
- Red Cross

2. Do you find your clients usually respond to your recommendations?

3. Do you follow up to see if they respond or not?

4. What is your usual routine in following up your recommendations?

5. Is there any pattern of difference between wed or unwed mother's responses?

6. Is the local health department as cooperative as you think it should be?

- Yes
- No Comment

7. What other local agencies and organizations do you think are most helpful and co-operative?

8. In percentage terms, as well as total numbers, what is your estimate of the extent of illegitimacy in your county?

   Percentage: Total ........ NW ........ W ........
   Total Number: Total ........ NW ........ W ........

9. In percentage terms, as well as total numbers, what is your estimate of the number of AFDC families in your county in which all the children are illegitimate?

   Percentage: ___________________________
   Total Number: __________________________

10. In percentage terms, as well as total numbers, to what extent are AFCD children in your county illegitimate?

    Percentage: ___________________________
    Total Number: __________________________
If Caseworker:

11. Who in your department usually decides the extent and type of services to be made available to individual clients (excluding money payments)?
   (a) ........ Caseworker decides solely in terms of the case before him?
   (b) ........ Caseworker decides within broad but flexible guidelines laid down by his Supervisor ...... or Director ...... [check]
   (c) ...... Refers the decision to his supervisor.
   (d) ...... Submits his recommendation to his supervisor.

Comment ......................................

If (a)]
Are decisions ever reversed by your supervisor or county director? .............

If Supervisor:

12. How closely do you supervise decisions of your caseworkers? .............

13. Do you ever reverse or alter their decisions? ..................................
   If so, how frequently? ..................................
   Under what conditions does this occur? ..................................

14. Does the director ever review your decisions? ..........................
   If so, under what conditions does this event occur? ..........................

15. Do you review caseworkers on a routine basis? ..........................
   If so, what is the routine? ..................................

Caseworkers only:

16. How frequently do you discuss your cases with:
   (a) Your Supervisor? ..................................
   (b) Your Director? ............................. .........
   Is this routine, or do you only discuss exceptional or unusual problems? ..........................

17. Do you usually discuss:
   (a) ...... Personal affairs?
   (b) ...... Administrative details?
   (c) ...... Individual case problems?
   (d) ...... Overall policy matters?
   (e) ...... Other: Specify .................................

18. Do you feel encouraged to make recommendations concerning local policy to your supervisor? ..................................

19. Have you ever made any recommendations? ..........................

20. Were they seriously received? ..................................

21. Do you feel that required paper work seriously interferes with your casework? ..........................

22. If you had a significantly lighter case load what steps would you take to ensure that your clients would follow your recommendations? ..........................
23. How frequently do you see your director? .........................
   Do you usually discuss:
   (a) ...... Personal affairs?
   (b) ...... Administrative details?
   (c) ...... Individual case problems?
   (d) ...... Overall policy matters?
   (e) ...... Other: Specify ........................................

24. How are you usually informed of new programs or resources which you can recommend to your clients? .........................
   State
   (a) ...... General information pamphlets
   (b) ...... Individual letter
   (c) ...... Departmental conferences
   (d) ...... Supervisor
   (e) ...... Word-of-mouth. Specify ..............................
   Local: Public or private
   (a) ......
   (b) ......
   (c) ......
   (d) ......
   (e) ...... Word-of-mouth. Specify ..............................

25. If you find that an unwed mother receiving AFDC benefits is pregnant again what is your next step? ..........................

26. Do these unwed mothers usually inform you of their pregnancy? .......................... At what stage of the pregnancy? ...........................

27. If you recommend a birth control clinic, do your clients usually respond to your recommendation? ..........................

28. Do you follow up to see if they respond or not? ..........................

29. What is your usual routine in following up your recommendations? ..........................

30. Do you find a pattern of difference between wed or unwed mothers' responses? ..........................

31. Do you ever recommend birth control clinics or information to members of client families other than the mother? ..........................
   If so, under what conditions? ..........................
   If not, why not? ..........................

32. Do you feel this is an effective technique to control unwanted pregnancies? ..........................

33. In your casework, do you meet mothers whom you consider unfit? ..........................

34. Determine how often: Rare .... Common .... Frequently ....

35. When you meet such a case, what steps do you take? ..........................

36. Determine the different circumstances in which worker takes particular steps.
37. Are these steps more effective with unwed mothers? ...... If so, why? ......
[Ask if not mentioned previously]
38. Do you ever investigate to determine fitness of the mother merely because she has had 3 illegitimate children? .................
If so, when? ..............................................
If not, why not? ...........................................

There was a pretest in Durham to determine the effectiveness of the questions and to familiarize inexperienced law students with the business of interviewing. The questionnaire was subsequently altered slightly and expanded. Eight counties were chosen to achieve a balance of geography, urban or rural character, racial composition, and illegitimacy rate. In six of these, interviews were conducted. Questionnaires were mailed to the two remaining departments, and one, in a metropolitan county, did not respond. As with the county commissioners, then, there is some bias toward rural counties in our sample. We asked to interview the caseworkers and supervisors, with at least one year's experience, who handled AFDC cases. Twenty-two caseworkers and ten supervisors were questioned. We also interviewed the welfare director in each county, but did not follow the questionnaire schedule.

APPENDIX III

HEALTH DEPARTMENT QUESTIONNAIRE

1. Would you briefly outline the administrative structure of this department? ................................................

2. What services does your department offer to unwed mothers?
   b. To illegitimate children? ................................
   c. What health services other than those offered by your department are available for these cases in the community? ........
   d. What other local agencies, whether public or private, are of most assistance in your efforts? ................................
   e. Describe their activities ................................
   f. When a pregnant unwed woman is referred to your department, what is the procedure for dealing with her condition? ........

3. a. Does your department actively engage in a preventive birth control program? ...... Yes ...... No
   b. If no, why is this so? ........................................
   c. If yes, briefly describe the type and extent of the program. ......
   d. Are these programs available to married mothers? ...... Yes ...... No
   e. To unmarried mothers? ...... Yes ...... No
   If no, what reasons?
If yes: Which program, in your estimate, is the most effective in reducing unwanted pregnancies?

f. (1) In your judgment, should birth control information be made available to single women who have never been pregnant? ...... Yes ...... No

Explain reasons: .............................................

(2) In your judgment, should birth control devices be made available to these women? ...... Yes ...... No

Explain reasons: .............................................

(3) (If no to last two questions):

Should birth control devices be made available to sexually promiscuous unmarried girls and women who have never been pregnant? .............................................

4. Do your clients respond effectively to your recommendations and services? ...... Yes ...... No

If No: What obstacles are confronted? .................................

5. What follow up measures do you or your department employ to ensure clients response? Describe: .................................

6. Do you observe any difference in response between married and unmarried mothers?

7. In percentage terms, as well as raw figures, what is your estimate of the illegitimacy rate in this county?

% .................. Total numbers ........................

8. What cooperative measures does the county welfare department provide to coordinate with your:

a. Illegitimacy prevention efforts? .................................

b. Maternal and child care program? .................................

9. What is the extent of the county's financial involvement in programs that involve illegitimacy?

% of total budget .......................... Total dollars/year ........................

10. Do you think that the state ought to contribute a larger percentage of your budget? ...... Yes ...... No

Reasons: .............................................................

11. Are you encouraged to suggest changes or new programs to your board of Health and County Commission? ...... Yes ...... No

12. Who exercises primary initiative in developing and implementing new programs in this county? .................................

13. Are the County Commissioners generally sympathetic to your work with the problems of illegitimacy? .................................

14. How could they play a more effective role in formulating policy and administering programs? .................................

15. Are the commissioners actively encouraging greater state financial assistance for your programs? .................................

16. How are you usually informed of new programs and resources of benefit to your clients? .................................
17. What role does the S. D. P. H. play in your local programs dealing with illegitimacy?

18. Do you feel that it could profitably play a larger role?

19. Are you autonomous in decisions regarding clients, or are you regularly supervised by a superior?

20. Do you feel that the commissioners have reservations about birth control efforts? Why?

21. Are your birth control services comprehensive? Yes No

22. If no:

Which groups could be reached by an enlarged program of this nature?

23. What eligibility requirements are imposed in this county to qualify for your services?

24. Were these requirements imposed by:

State Law
County Commissioners
State Board of Health
Local Board of Health
Local Director

25. How frequently do you discuss matters with your director?

1-3 months
4-6
7-9
10-12
12 or more months

26. Do you usually discuss:

personal affairs
administrative details
individual cases
policy matters
other

27. How frequently do you discuss matters with your Board of Health?

1-3 months
4-6
7-9
10-12
12 or more months

28. Do you usually discuss:

personal affairs
Administrative details
individual cases
policy matters
other
29. How frequently do you discuss matters with your county commission?
    1-3 months ......
    4-6 " ......
    7-9 " ......
    10-12 " ......
    12 or more months ......

30. Do you usually discuss:
    ...... personal affairs
    ...... administrative details
    ...... individual cases
    ...... policy matters
    ...... other ................................................

31. Do you feel encouraged to offer recommendations concerning local policy and programs to:
    ...... your Director
    ...... Board of Health
    ...... County Commissioners

Have you ever made such recommendations? ................
Were they seriously received? .................................

32. How frequently do you recommend abortion as means of terminating a pregnancy? ...........................................

33. Under what conditions do you make such recommendations? ......

34. How frequently do you recommend sterilization as a means of dealing with illegitimacy? .....................................

35. Under what conditions? ........................................

36. Do you feel any significant difference between illegitimate and legitimate children with reference to their need for services?
    ...... Yes ...... No

Explain: ................................................

37. Do you regard illegitimacy as a serious social problem in this country?

Explain: ................................................

38. How could your illegitimacy programs be improved? ............

Although questionnaires were sent to ten counties, only four health departments responded. Typical services offered to unwed mothers by these four were planned parenthood clinics, prenatal and postnatal care, and home visits to the mother. Pediatric clinics were available in all four departments to aid illegitimate children. Three of the four counties maintained active birth control programs, common features of which were free physical examinations, advice (including discussion of sterilization with some women), and birth control equipment. One department recommended the use of the "pill," another preferred intrauterine devices, and the third had no preference. All three departments were of the opinion that birth control should be made available to single